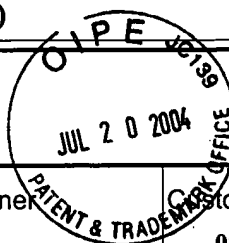


**TRANSMITTAL LETTER
(General - Patent Pending)**

Docket No.
50447-11 /aba

In Re Application Of: **BEHROUZ POUSTCHI, ET AL**



Application No.
10/760,530

Filing Date
January 21, 2004

Examiner

Customer No.
07380

Group Art Unit

Confirmation No.
1092

Title: **CALL FORWARDING SYSTEMS, METHODS AND NETWORKS DEVICES**

COMMISSIONER FOR PATENTS:

Transmitted herewith is: **Petition under 37 C.F.R. 1.47(a)**

Enclosed herewith is:

- (1) **Petition**
- (2) **Declaration from Marc Pépin**
- (3) **Exhibits A through E**

in the above identified application.

- ☐ No additional fee is required.
- ☐ A check in the amount of _____ is attached.
- ☒ The Director is hereby authorized to charge and credit Deposit Account No. **19-2550** as described below.
 - ☒ Charge the amount of **\$130.00**
 - ☒ Credit any overpayment.
 - ☒ Charge any additional fee required.

Signature

**Allan Brett (Reg. No. 40,476)
SMART & BIGGAR
P.O. Box 2999, Station D
900 - 55 Metcalfe Street
Ottawa, Ontario
K1P 5Y6, Canada**

Dated: **July 19, 2004**

I certify that this document and fee is being deposited on _____ with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature of Person Mailing Correspondence

Typed or Printed Name of Person Mailing Correspondence

Tel.: **613-232-2486**

CC:



UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/760,530 Confirmation No.
Applicant : BEHROUZ POUSTCHI,
ET AL.
Filed : January 21, 2004
TC/A.U. :
Examiner :

Docket No. : 50447-11
Customer No. : 07380

Commissioner for Patents
Alexandria, VA 22313-1450
U.S.A.

**PETITION UNDER 37 C.F.R. 1.47(a) to allow a first inventor
and a second inventor to make an application on behalf of both
themselves and an omitted inventor because the omitted
inventor refuses to join in the above identified application**

Dear Sir:

1. In accordance with the provisions of 37 CFR. 1.47(a), the Applicant petitions the Commissioner to allow inventors (Behrouz Poustchi and Vineet Seth) to make this application on behalf of themselves and an omitted inventor (Natalie Ann Gagnon) because the omitted inventor has been uncooperative in signing the oath/declaration.
2. A partially executed "Declaration for Patent Application and Power of Attorney" and an Assignment in connection with the above-identified application are now being filed. The Declaration and the Assignment were signed by Mr. Behrouz Poustchi and Mr. Vineet Seth. Ms. Gagnon's signature is missing from the Declaration and from the Assignment because she has been uncooperative in signing and returning the documents.

Proof of the Pertinent Facts

3. Natalie Ann Gagnon signed and submitted an agreement relating to intellectual property and confidentiality on September 27, 2002 at which time she was an employee of Nimcat Networks Inc. As an employee, she was under an obligation to assign to Nimcat Networks Inc. all rights in any invention made during the course of her employment. A copy of this document is attached as Exhibit "A".

4. Smart & Biggar, the firm with which I am associated was appointed as Agent to represent the Applicants in the preparation of a United States Patent Application entitled CALL FORWARDING SYSTEMS, METHODS AND NETWORK DEVICES, which was subsequently filed January 21, 2004 and given Serial Number 10/760,530 ("the Application"), and which claimed priority from United States provisional application no. 60/441,121.
5. On April 14, 2004, I sent a first set of documents to the inventor including the Specification, Declaration, Assignment, and Drawings. Please see attached Exhibit "B" which is a copy of my cover letter from our file. Receipt of this letter was confirmed, please see Declaration of Marc Pépin attached hereto.
6. Marc Pépin, a technical consultant at Smart & Biggar, has made an attempt to have Ms. Gagnon execute the documents as attested in his declaration attached hereto.
7. I sent another letter to the inventor on May 3, 2004 by courier to have the inventor execute a new Combined Declaration and Power of Attorney and a new Assignment in which inventor Vineet Seth was added as an inventor. Please see attached Exhibit "C" which is a copy of my cover letter from our file. Receipt of this letter was confirmed, please see Declaration of Marc Pépin attached hereto.
8. Marc Pépin has made further attempts to have Ms. Gagnon execute the documents as attested in his Declaration attached hereto.
9. Marc Pépin sent a final letter to the inventor on June 3, 2004 by courier forwarding again the new Combined Declaration and Power of Attorney. A copy of this document is attached as Exhibit "D".
10. Marc Pépin has made again further attempts to have the inventor execute the documents as attested in his Declaration attached hereto. However, we have been instructed that the inventor refuses to speak to us and that we are not to contact her, please see his Declaration attached hereto.

The last known address of the omitted inventor

11. The last known address of the omitted inventor, Natalie Ann Gagnon, as of February 4, 2003 is:

165 Spruce Crescent, RR#1
Carleton Place, Ontario
Canada K7C 3P1

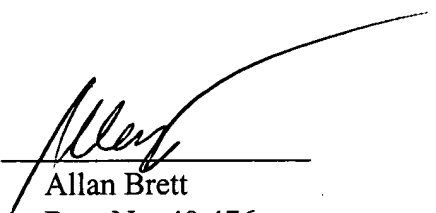
Relief Sought

12. Consequently, the Applicant petitions the Commissioner to allow inventors (Behrouz Poustchi and Vineet Seth) to make this Application on behalf of themselves and the omitted inventor (Natalie Ann Gagnon). Such action is necessary to preserve the rights of Nimcat Networks Inc. as failure to proceed could result in delay of issuance of the patent.

Respectfully submitted,

SMART & BIGGAR

By


Allan Brett
Reg. No. 40,476
Tel.: (613) 232-2486 ext. 323

Date: July 19, 2004

RAB:MPP:acb:rld



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/760,530 Confirmation No.
Applicant : BEHROUZ POUSTCHI,
ET AL
Filed : January 21, 2004
TC/A.U. :
Examiner :

Docket No. : 50447-11
Customer No. : 07380

Commissioner for Patents
Alexandria, VA 22313-1450
U.S.A.

Dear Sir:

I, Marc P. Pépin, of 1535 Chomley Crescent, Ottawa, Ontario, Canada K1G 0V9, make oath and say:

1. I am a technical consultant who assisted Mr. Allan Brett in the preparation of United States Patent Application Serial No. 10/760,530.
2. On April 28, 2004, after Mr. Allan Brett had sent a letter dated April 14, 2004 (Exhibit "B") to Ms. Natalie Ann Gagnon forwarding a Combined Declaration and Power of Attorney and an Assignment for execution, I called Ms. Natalie Ann Gagnon to indicate to her that a new Combined Declaration and Power of Attorney and Assignment would have to be executed because inventor Vineet Set was being added. Ms. Gagnon indicated that she had some issues with the Assignment that was sent to her on April 14, 2004. I asked Ms. Gagnon which part of the Assignment she did not agree with and I indicated to her that I would amend the Assignment to address her concerns.
3. On May 5, 2004; May 14, 2004; and May 31, 2004, after Mr. Allan Brett's letter of May 3, 2004 (Exhibit "C") forwarding a new Combined Declaration and Power of Attorney and a new Assignment, I telephoned Ms. Gagnon at her new employer (Centerpoint Technologies Inc.) and left a voicemail asking Ms. Gagnon to contact me regarding execution of the new Combined Declaration and Power of Attorney and the new Assignment.
4. On June 1, 2004, I telephoned Ms. Gagnon at her new employer regarding execution of

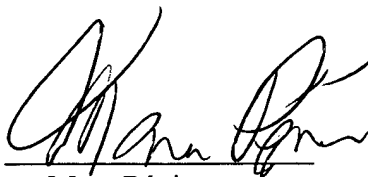
the new Combined Declaration and Power of Attorney and the new Assignment. Ms. Gagnon indicated to me that she would not execute the new Assignment and that she had not received the new Combined Declaration and Power of Attorney.

5. On June 3, 2004, I forwarded a package containing the new Combined Declaration and Power of Attorney to Ms. Gagnon for execution (Exhibit "D").
6. Proof of delivery of the above package of June 3, 2004 to the address of Ms. Gagnon's new employer (Centrepont Technologies Inc.) is shown by a copy of an extract from the courier's manifest dated June 3, 2004 (Exhibit "E").
7. On June 21, 2004 and June 24, 2004, I telephoned Ms. Gagnon at her new employer and left a voicemail asking Ms. Gagnon to contact me regarding execution of the new Combined Declaration and Power of Attorney.
8. On June 25, 2004, I telephoned the receptionist at Ms. Gagnon's new employer asking whether Ms. Gagnon could be reached. I was transferred to Ms. Gagnon's manager who indicated that Ms. Gagnon is refusing to speak to me and that I should make no other attempts at contacting her.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that wilful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such wilful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

SMART & BIGGAR

By 

Marc Pépin

Tel.: (613) 232-2486 ext. 393

Date: July 19, 2004

RAB:MPP:acb:rld

COPY



NIMCAT NETWORKS INCORPORATED

EMPLOYEE AGREEMENT AS TO CONFIDENTIALITY OF INFORMATION AND OWNERSHIP OF PROPRIETARY PROPERTY

IN CONSIDERATION OF EMPLOYMENT WITH NIMCAT NETWORKS INCORPORATED ("COMPANY") THE UNDERSIGNED ("EMPLOYEE") ACKNOWLEDGES AND AGREES THAT:

- 1- Employment with company will give Employee access to proprietary and confidential information belonging to Company, its customers, its suppliers and others (which proprietary and confidential information is collectively referred to in this agreement as "Confidential Information"); and
- 2- Employee may in the course of employment with the Company develop tangible and intangible property including without limitation, software, hardware, know-how, designs, techniques, documentation and other material regardless of form or media on which such is stored, some or all of which property may be protected by patents, copyrights, trade secrets, trade marks, industrial designs or mask works (which tangible and intangible property is collectively referred to in this agreement as Proprietary Property").
- 3- Employee, both during and after employment with the Company, shall keep all Confidential Information confidential and shall not use any Proprietary Property or Confidential Information except in the course of carrying out authorized activities on behalf of the Company or except as expressly authorized by Company in writing.
- 4- Employee shall not make any unauthorized use of any trade secrets or Proprietary Property of a third party during the course of the employment with the Company.
- 5- All Proprietary Property which Employee may develop in the course of employment with the Company, whether alone or jointly with others, shall be exclusive property of Company and Employee shall have no rights in any such Proprietary Property. At the request and expense of Company, Employee agrees to do all acts necessary and sign all documentation necessary in order to assign all rights in the Proprietary Property to Company and to enable Company to register patents, copyrights, trade marks, mask works, industrial designs and such other protections as Company deems advisable anywhere in the world.
- 6- If during the course of employment with the Company Employee develops any work which is protected by copyright, Employee hereby waives unconditionally any "moral rights" Employee may have in such work.
- 7- Employee, both during and after employment with the Company, shall not make any unauthorized use of the Company's computer systems, communications networks, databases or files. Employee shall adhere to all Company policies regarding the use of such computer systems, communication networks, databases or files.
- 8- Employee shall not use unauthorized software on Company equipment during the course of the employment with the Company.
- 9- Employee's employment with Company is and will continue to be subject to the terms and conditions of this agreement.

IN WITNESS WHEREOF employee has executed this agreement this 27 day of Oct, 2002.

Witness

Natalie Cagnon
Employee name (Please Print)

Natalie Cagnon
Employee Signature

Employee Number

Allan Brett
abrett@smart-biggar.ca

Our Ref: 50447-10; -11; -14; -15

April 14, 2004

Ms. Natalie Ann Gagnon
Centrepont Technologies Inc.
1545 Carling Avenue
Suite 510
Ottawa, ON K1Z 8P9

BY COURIER
PRIVILEGED
AND CONFIDENTIAL

Dear Ms. Gagnon:

Re: U.S. Patent Application based on U.S. Provisional
Patent Application No. 60/441481
Inventor(s): Behrouz Poustchi et al.
Current Owner(s): Behrouz Poustchi et al.
Title: CALL TRANSFER SYSTEM, METHOD
AND NETWORK DEVICES

U.S. Patent Application based on U.S. Provisional Patent
Application No. 60/441121
Inventor(s): Behrouz Poustchi et al.
Current Owner(s): Behrouz Poustchi et al.
Title: CALL FORWARDING SYSTEMS, METHODS
AND NETWORK DEVICES

PCT Patent Application
PCT No.: PCT/CA2004/000080
Inventor: Poustchi, Behrouz et al
Title: CALL TRANSFER SYSTEM, METHOD AND
NETWORK DEVICES

PCT Patent Application
PCT No.: PCT/CA2004/000056
Inventor: Poustchi, Behrouz et al
Title: CALL FORWARDING SYSTEMS,
METHODS AND NETWORK DEVICES

Further to your telephone conversation of March 22, 2004 with Marc Pépin regarding the Powers of Attorney that were sent to you regarding the above-identified applications, these Powers of Attorney are routinely sent to inventors for execution when filing

international applications. They allow us to act on behalf of the Applicants.

Signing the Powers of Attorney in no way makes you liable for any fees incurred relating to these applications. Our dealings are with Nimcat Networks Inc. and any fees relating to the applications will be directed only to Nimcat Networks Inc.

I believe this satisfies your concerns.

I have also enclosed a Combined Declaration and Power of Attorney, and an Assignment for each of the corresponding United States cases together with a copy of the specification and drawings of each of these cases. Note that the specifications and drawings are privileged and confidential and should not be disclosed to anyone at Centrepont Technologies Inc.

Please have the Powers of Attorney, the Combined Declaration and Powers of Attorney, and the Assignments executed and returned to us as soon as possible together with the specifications and drawings.

If you have any questions please feel free to call me at (613) 232-2486 ext. 323 or Marc Pépin at (613) 232-2486 ext. 393.

Yours very truly,

SMART & BIGGAR

Allan Brett

RAB:MPP:acb
Encl.

Mark Pépin
mppepin@smart-biggar.ca

Our Ref: 50447-10; -11; -14; -15

May 3, 2004

Ms. Natalie Ann Gagnon
Centrepont Technologies Inc.
1545 Carling Avenue
Suite 510
Ottawa, ON K1Z 8P9

BY COURIER
PRIVILEGED
AND CONFIDENTIAL

Dear Ms. Gagnon:

Re: U.S. Patent Application based on U.S. Provisional
Patent Application No. ~~60/441481~~
Inventor(s): Behrouz Poustchi et al.
Current Owner(s): Behrouz Poustchi et al.
Title: CALL TRANSFER SYSTEM, METHOD
AND NETWORK DEVICES

U.S. Patent Application based on U.S. Provisional Patent
Application No. ~~60/441481~~
Inventor(s): Behrouz Poustchi et al.
Current Owner(s): Behrouz Poustchi et al.
Title: CALL FORWARDING SYSTEMS, METHODS
AND NETWORK DEVICES

PCT Patent Application
PCT No.: PCT/CA2004/000080
Inventor: Poustchi, Behrouz et al
Title: CALL TRANSFER SYSTEM, METHOD AND
NETWORK DEVICES

PCT Patent Application
PCT No.: PCT/CA2004/000056
Inventor: Poustchi, Behrouz et al
Title: CALL FORWARDING SYSTEMS,
METHODS AND NETWORK DEVICES

Further to our telephone conversation of April 28, 2004, enclosed herewith are Powers of Attorney for the above-identified PCT applications together with a Combined Declaration and Power of Attorney for the U.S. patent application on call forwarding. Note that as

pointed out to you in the telephone conversation, Vineet Seth has been added as an inventor. As such, the Combined Declaration and the Power of Attorney needs to be executed once again.

Please have the Powers of Attorney and the Combined Declaration and Power of Attorney executed as soon as possible and let us know when these have been executed so that we may have them picked up.

Regarding issues you raised with executing assignments for the U.S. cases, enclosed herewith are new assignments in which we have deleted some of the wording previously found in the original assignment. I believe the new wording in the assignments addresses your concerns. Please have the assignments executed and witnessed.

If you have any questions please feel free to call me at (613) 232-2486 ext. 393.

Thank you for your cooperation in this matter.

Yours very truly,

SMART & BIGGAR

Marc Pépin

MPP:acb
Encl.

cc Behrouz Poustchi

Marc P. Pépin
mppepin@smart-biggar.ca

Our Ref: 50447-11

BY COURIER

June 3, 2004

Natalie Ann Gagnon
Centrepont Technologies Inc.
1545 Carling Avenue, Suite 510
Ottawa, Ontario K1Z 8P9
Canada

Dear Natalie:

Re: United States Patent Application
No.: 10/760530
Applicant: BEHROUZ POUSTCHI ET AL.
Inventor: Behrouz Poustchi et al.
Title: **Call Forwarding Systems, Methods and
Network Devices**

Further to our telephone conversation of June 1, 2004, enclosed herewith is a Combined Declaration and Power of Attorney for the above-identified patent application. Please have the Combined Declaration and Power of Attorney executed as soon as possible. Please let us know when the document has been executed so that we may have it picked up.

If you have any questions please feel free to call me at (613) 232-2486 x 393.

Thank you for your co-operation in this matter.

Yours very truly,

SMART & BIGGAR

Marc P. Pépin

MPP:sch
Encl.



PICK-UP/DELIVERY: (613) 228-6571
ADMINISTRATION: (613) 228-1612
FACSIMILE: (613) 228-8045

ACCOUNT NUMBER

2364

Velocity Express Canada Ltd.

Ottawa, Ontario

Gold: Allow up to 30 mins. guaranteed core to core & up to 120 mins city wide. (depending on distance travelled). Exclusive premium direct drive service.

Hot Shot: Allow up to 30-60 mins core to core & up to 60 mins city wide. (depending on distance travelled some distance areas may experience up to 90 min service)

Rush: Allow up to 60 & 90 mins core to core & up to 120 mins city wide.

Non-Rush: Allow up to 4 hrs completion city wide & up to 2 hrs core to core. Requests taken up to 1:00 pm daily city wide & up to 3:00pm core to core for delivery same day. Calls received after this time frame will be actioned next business morning.

* Please note all services will be performed as close to our published time frames as possible, however, adverse weather conditions and road construction (of which we have no control over) may affect our delivery schedules.

DATE	JOB ORDER NO.	INTERNAL REFERENCE CODE	PICK-UP ELSEWHERE CHECK BOX	ADDRESS	REMARKS	NO OF ITEMS	WEIGHT KILOS/LBS	SERVICE LEVEL	COURIER NO.
May 27/04	699 915		<input type="checkbox"/>	3500 Carling Ave.		1		HS	
May 28/04	701 255		<input type="checkbox"/>	2121 Carling Ave.		1		HS	
May 31/04	701 548		<input type="checkbox"/>	84 Mines Road		1		R	
"	702 282		<input type="checkbox"/>	511 Somerset St. W.		1		HS	
"	702 285		<input type="checkbox"/>	3500 Carling Ave.		1		HS	
June 1/04	703 279		<input type="checkbox"/>	3500 Carling Ave.		1		HS	
June 2/04	703 965		<input type="checkbox"/>	250 Bessner St.	Box	1	11 Kg.	R	
June 3/04	704 813		<input type="checkbox"/>	3500 Carling Ave.		1		R	
"	704 942		<input type="checkbox"/>	1545 Carling Ave.	Delivered at 13:14 Signed for by "Parier"	1		R	*
"	705 246		<input type="checkbox"/>	3500 Carling Ave.		1		HS	
June 4/04	705 991		<input checked="" type="checkbox"/>	250 Bessner St.	Box	1		R	
"	706 189		<input type="checkbox"/>	3500 Carling Ave.		1		HS	
June 7/04	706 574		<input type="checkbox"/>	117 Centrepark Dr. S. W. 350		1		R	
"	707 149		<input type="checkbox"/>	3500 Carling Ave.		1		HS	
June 8/04	707 644		<input type="checkbox"/>	400 Dwyer Rd.		1		R	

IMPORTANT: Read conditions on reverse.

MANIFEST SHEET